

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| -----X | : | |
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| CALIEB BARNES, | : | |
| | : | |
| Petitioner, | : | 15cv4437 (DLC) |
| | : | |
| -v- | : | 16cv4521 (DLC) |
| | : | |
| UNITED STATES OF AMERICA, | : | 11cr184 (DLC) |
| | : | |
| Respondent. | : | <u>ORDER</u> |
| | : | |
| -----X | | |

DENISE COTE, District Judge:

On June 16, 2016, Caleb Barnes sought leave to a file a second or successive petition ("Petition") under 28 U.S.C. § 2255 to vacate or correct his conviction under 18 U.S.C. § 924(c). Barnes's Petition asserts that his § 924(c) conviction under 18 U.S.C. § 1951 predicated on attempted Hobbs Act robbery is no longer valid after Johnson v. United States, 576 U.S. 591 (2015), and United States v. Davis, 139 S. Ct. 2319 (2019).

On October 1, 2020, the Court of Appeals for the Second Circuit granted Barnes's motion for leave to file the Petition. The mandate returning jurisdiction to this Court was transmitted on October 5. In the mandate, the Court of Appeals noted that the question of the viability of convictions under § 924(c) predicated on attempted Hobbs Act robbery is pending in several appeals before that court. See, e.g., United States v. McCoy, 2d Cir. 17-3515; United States v. Collymore, 2d Cir. 19-596; United States v. Morris, 2d Cir. 16-6. The mandate went on to


note that this Court could decide whether to stay proceedings pending a decision in those cases. Accordingly, it is hereby

ORDERED that proceedings on the Petition shall be stayed unless either party objects to such a stay by **October 23, 2020**.

IT IS FURTHER ORDERED that petitioner shall promptly notify the Court when the Court of Appeals rules on the legal issue raised by the Petition so that the stay may be lifted.

SO ORDERED:

Dated: New York, New York
October 7, 2020



DENISE COTE
United States District Judge